

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 930008-2208 (BOE0004US.NP)  
Inventors: Klokke et al.  
Serial No.: 10/577,569  
Filing Date: Not Yet Assigned  
Examiner: Not Yet Assigned  
Customer No.: 26259  
Group Art Unit: Not Yet Assigned  
Confirmation No.: Not Yet Assigned  
Title: Pharmaceutical Active-  
Ingredient-Containing Formulation  
with Coating

**Electronically Submitted via EFS-Web**

Date: October 4, 2007

I hereby certify that this paper is being electronically  
submitted on the date indicated above to the  
Commissioner for Patents, U.S. Patent &  
Trademark Office

By Jane Massey Licata  
Typed Name: **Jane Massey Licata, Reg. No. 32,257**

U.S. Patent and Trademark Office  
P.O. Box 2327  
Arlington, VA 22202-0327

Dear Sir:

**RESPONSE TO DECISION AND PETITION UNDER 37 CFR §1.47(a)**

In response to the "Decision", a response to which is due **October 5, 2007**, applicants petition pursuant to 37 CFR §1.47(a) for the Office to accept the Declaration and Power of Attorney Form for the above-referenced application which has been signed by inventors

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signed by inventors Klokke, Zellner and Dauer but not been signed by inventor Rillmann.

As stated in the Petition filed with applicants Response to Notification of Missing Requirements on February 21, 2007, applicants' counsel accepted the representation and handling of this application on February 20, 2007 and were advised by Boeters & Lieck (the German representative), they were unable to obtain inventor Rillmann's signature on the Declaration and Power of Attorney form.

On February 23, 2007, a letter was sent to inventor Rillmann via Federal Express containing the Declaration and Power of Attorney form for signature. Confirmation of delivery was received from Federal Express on February 26, 2007.

Copies of applicants' Response to Notification of Missing Requirements filed February 21, 2007, the letter sent to inventor Rillmann via Federal Express containing the Declaration and Power of Attorney form for signature dated February 23, 2007 and letter from Boeters & Lieck confirming the last known address of inventor, Rillmann are provided.

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Inventor Rillmann prepared and executed his own Declaration (listing himself as an inventor) and executed the Declaration signed only by himself of July 5, 2007. A response to Missing Parts was filed on July 17, 2007 with this Declaration and a Declaration signed by the three co-inventors.

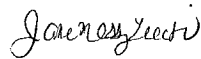
The Rillmann declaration was not accepted by the USPTO pursuant to the Decision dated September 5, 2007. Another copy of the joint Declaration was furnished to Rillmann on October 2, 2007, which he refused to sign.

Therefore, Applicants submit with this response and petition, a Declaration of Hubert Leger, proof of the pertinent facts regarding their inability to find or reach non-signing inventor Rillmann and the requisite fees under 37 CFR §1.17(I) and

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Page 4

1.17(a)(3). The last known address of non-signing inventor Thomas Rillmann is Gustav-Ulrich-Str. 46, D-76753 Bellheim, Germany.

Respectfully submitted,



Jane Massey Licata  
Registration No. 32,257

Date: October 4, 2007

LICATA & TYRRELL P.C.  
66 E. Main Street  
Marlton, New Jersey 08053

(856) 810-1515



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

05 SEP 2007

Docket System  
Status Report  
Docket Book

Ronald R. Santucci  
Frommer Lawrence & Haug  
745 Fifth Avenue  
New York NY 10151

DOCKETED

In re Application of  
KLOKKERS et al.  
Application No.: 10/577,569  
PCT No.: PCT/EP2004/012230  
Int. Filing Date: 28 October 2004  
Priority Date: 31 October 2003  
Attorney Docket No.: 930008-2208  
For: PHARMACEUTICAL ACTIVE-INGREDIENT-  
CONTAINING FORMULATION WITH COATING

DECISION

SEP 28 11:53  
FROMMER LAWRENCE  
& HAUG LLP

This decision is in response to the submission filed 17 July 2007 in the United States Patent and Trademark Office (USPTO).

#### BACKGROUND

On 28 October 2004, applicants filed international application PCT/EP2004/012230, which designated the United States and claimed a priority date of 31 October 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 12 May 2005. The (thirty-month period for paying the basic national fee in the United States expired at midnight on 01 May 2006 (30 April 2006 being a Sunday).

On 27 April 2006, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a translation of the application into English.

On 26 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 21 February 2007, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration signed by all of the inventors except for Thomas Rillman, a letter from a Dr. Forstmeier to Applicant's United States attorney, Ms. Massey Licata, dated 20 February 2007.

On 28 March 2006, a decision was mailed dismissing applicants' petition under 37 CFR

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1.47(a) without prejudice. The decision indicated, *inter alia*, that applicant had failed to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort. The decision set a two-month extendable period for reply.

On 17 July 2007, applicants filed the instant submission which was accompanied by, *inter alia*, a declaration of inventors signed by Thomas Rillman.

#### DISCUSSION

##### Petition Under 37 CFR 1.47(a)

Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

##### Declaration of Inventors

The declaration of inventors signed by Thomas Rillman filed 17 July 2007 is not in compliance with 37 CFR 1.497(a)-(b) since it does not identify all of the inventors. Each declaration must identify all of the inventors even if it is only signed by one of them.

##### Extension of Time

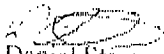
The decision mailed 28 March 2007 set a two-month extendable period for reply. The submission filed 17 July 2007 included a petition/fee for a five-month extension of time when only a two month extension was required. The difference has been credited to Deposit Account 50-1619.

#### CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Since the reply filed 17 July 2007 appears to have been bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to provide a declaration signed by Thomas Rillman in compliance with 37 CFR 1.497(a)-(b). Failure to timely file a proper reply will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

  
Daniel Stemmer  
Legal Examiner

Application No.: 10/577,569

-3-

PCT Legal Affairs  
Office of Patent Cooperation Treaty  
Legal Administration  
Telephone: (571) 272-3301  
Facsimile: (571) 273-0459

**TRANSMITTAL LETTER TO THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US)  
CONCERNING A SUBMISSION UNDER 35 U.S.C. 371**

ATTORNEY DOCKET NUMBER

930008-2209 (BOE0004US.NP)

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)

10/577,569

INTERNATIONAL APPLICATION NO.  
PCT/EPO04/12230

INTERNATIONAL FILING DATE  
October 28, 2004

PRIORITY DATE CLAIMED  
October 31, 2003

**TITLE OF INVENTION**

**Pharmaceutical Active-Ingredient-Containing Formulation with Coating**

**APPLICANT(S) FOR DO/EO/US**

**Klokkers et al.**

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☐ This is a **FIRST** submission of items concerning a submission under 35 U.S.C. 371.
2. ☒ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a submission under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (24) indicated below.
4. ☐ The US has been elected (Article 31).
5. ☐ A copy of the International Application as filed (35 U.S.C. 371 (c)(2))
  - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ has been communicated by the International Bureau.
  - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
  - a. ☐ is attached hereto.
  - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3))
  - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ have been communicated by the International Bureau.
  - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
  - d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)).
10. ☐ An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)).
11. ☐ A copy of the International Preliminary Examination Report (PCT/IPEA/409).
12. ☐ A copy of the International Search Report (PCT/ISA/210).

**Items 13 to 23 below concern document(s) or information included:**

13. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
14. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
15. ☐ A **FIRST** preliminary amendment.
16. ☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
17. ☐ A substitute specification.
18. ☐ A power of attorney and/or change of address letter.
19. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 - 1.825.
20. ☐ A second copy of the published International Application under 35 U.S.C. 154(d)(4).
21. ☐ A second copy of the English language translation of the International Application under 35 U.S.C. 154(d)(4).
22. ☒ Express Mail Label No. **EM 054665613US**



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

U.S. APPLICATION NO (if known, see 37 CFR 1.5)		INTERNATIONAL APPLICATION NO.		ATTORNEY'S DOCKET NUMBER	
10/577,569		PCT/EPO04/12230		930008-2209 (BOE0004US.NP)	

23. Other items or information:

1) Copy of Notification of Missing Requirements; and  
2) Petition Under 37 CFR 1.47(a);

The following fees have been submitted:				CALCULATIONS	PTO USE
24.	<input type="checkbox"/> Basic national fee		\$300	\$	\$0.00
25.	<input type="checkbox"/> Examination fee (37 CFR 1.492(c))			\$	\$0.00
If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article					
			\$0		
All other situations.					\$200
26.	<input type="checkbox"/> Search fee (37 CFR 1.492(b))			\$	\$0.00
If the written opinion of the ISA/US or the International preliminary examination report by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4).					
			\$0		
Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the as an International Searching Authority.					\$100
International Search Report prepared by an ISA other than the US and provided to the previously communicated to the US by the IB.					\$400
All other situations.					\$500
<b>TOTAL OF 24, 25 and 26 =</b>				\$	\$0.00
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(i)). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole)		RATE	
- 100 =	0	/50 = 0		x \$250.00	\$ \$0.00
Surcharge of \$130.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).				\$	\$130.00
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	- 20 =	0	x \$50.00	\$	\$0.00
Independent claims	- 3 =	0	x \$200.00	\$	\$0.00
MULTIPLE DEPENDENT CLAIMS (if applicable) <input type="checkbox"/> + \$360.00				\$	\$0.00
<b>TOTAL OF ABOVE CALCULATIONS =</b>				\$	\$130.00
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.				\$	\$0.00
<b>Petition fee</b>				\$	\$130.00
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).				\$	\$0.00
<b>TOTAL NATIONAL FEE =</b>				\$	\$130.00
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40 per property +				\$	\$0.00
<b>TOTAL FEES ENCLOSED =</b>				\$	\$260.00
				Amount to be	\$
				Amount to be	\$

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

- a. ☐ A check in the amount of \$ \_\_\_\_\_ to cover the above fees is enclosed.
- b. ☐ Please charge my Deposit Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ to cover the above fees.  
A duplicate copy of this sheet is enclosed.
- c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-1619. A duplicate copy of this sheet is enclosed.
- d. ☒ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. **Credit card information should not be included on this form.** Provide credit card information and authorization on PTO-2038.

**NOTE:** Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

Jane Massey Licata, Reg. No. 32,257  
Kathleen A. Tyrrell, Reg. No. 38,350  
Licata & Tyrrell P.C.  
66 E. Main Street  
Marlton, New Jersey 08053  
Telephone: (856) 810-1515  
Facsimile: (856) 810-1454

Jane Massey Licata  
SIGNATURE

Jane Massey Licata  
NAME

NAME

32,257  
REGISTRATION NUMBER

REGISTRATION NUMBER

February 21, 2007  
DATE

DATE



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO. 10/577,569	FIRST NAME OF APPLICANT FROMMER, LAWRENCE & HAUG, LLP	ATTY. DOCKET NO. 930008-2208
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INTERNATIONAL APPLICATION NO.

PCT/EP04/12230

IA FILING DATE

10/28/2004

PRIORITY DATE

10/31/2003

Ronald R. Santucci  
Frommer Lawrence & Haug  
745 Fifth Avenue  
New York, NY 10151

Docket System

Status Report

Docket Book

CONFIRMATION NO. 6210

371 FORMALITIES LETTER



\*OC000000021674468\*

DOCKETED

Date Mailed: 12/21/2006

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 04/27/2006
- English Translation of the IA filed on 04/27/2006
- Copy of the International Search Report filed on 04/27/2006
- Copy of IPE Report filed on 04/27/2006
- Preliminary Amendments filed on 04/27/2006
- Information Disclosure Statements filed on 04/27/2006
- Oath or Declaration filed on 04/27/2006
- U.S. Basic National Fees filed on 04/27/2006
- Priority Documents filed on 04/27/2006

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:
  - is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$130** for a Large Entity:

- **\$130** Surcharge.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

CHARITTA A BURT

Telephone: (703) 308-9140 EXT 207

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/577,569	PCT/EP04/12230	930008-2208

20 FEB 2007 12:19

8024 908 2198

NR. 8530 S. 2/5

FLH Docket No. 930008-2208

**DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY**

(Under 37 CFR § 1.63; includes reference to PCT International Applications)

As a below named inventor, I hereby declare that:

My residence, resident, mailing address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention ENTITLED:

**PHARMACEUTICAL ACTIVE-INGREDIENT-CONTAINING FORMULATION WITH COATING**

the specification of which:

- ☐ is attached hereto
- ☒ was filed on \_\_\_\_\_ as:
- ☒ United States Application Serial No. \_\_\_\_\_
- ☒ as a National Phase or Continuation or Continuation-in-Part or Divisional of PCT Application No. PCT/EP2004/012230, filed October 28, 2004 and designating the U.S., and published as WO 2005/041934 A on May 12, 2005
- ☐ with amendments through \_\_\_\_\_ (if applicable, give details).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code § 119 of any foreign application(s) for patent or inventor's certificate or of any PCT International application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application for patent or inventor's certificate or any PCT International applications designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) on which priority is claimed:

Prior Foreign/PCT Application(s) [list additional applications on separate page]:

Country (or PCT)	Application Number	Filed (Day/Month/Year)	Priority Claimed:	
			Yes	No
DE (Germany)	103 51 301.9	31/10/2003	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DE (Germany)	10 2004 014 828.7	24/03/2004	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States application listed below:

(Application Number)	(Filing Date)

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

20. FEB. 2007 12:20

8024 908 2198

NR. 853 S. 3/5

FLH Docket No. 930008-2208

Prior U.S. (or U.S.-designating PCT) Application(s) [list additional applications on separate page]:

U.S. Serial No.: Filed (Day/Month/Year) PCT Application No. Status (patented, pending, abandoned)

I hereby appoint Ronald R. Santucci, Registration No. 28,988, and Frommer Lawrence & Haug LLP, or their duly appointed associate, my attorneys, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to file continuation and divisional applications thereof, to receive the Patent, and to transact all business in the Patent and Trademark Office and in the Courts in connection therewith, and to insert the Serial Number of the application in the space provided above, and specify that all communications about the application are to be directed to the following correspondence address:

Ronald R. Santucci, Esq.  
c/o FROMMER LAWRENCE & HAUG LLP  
745 Fifth Avenue  
New York, NY 10151

Direct all telephone calls to: (212) 588-0800  
to the attention of: Ronald R. Santucci

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

## INVENTOR(S):

X Signature: Karin KlockersDate: Aug 28, 2006Full name of sole or first inventor: Karin KLOCKERSResidence: Feldkirchen-Westerham, GermanyMailing Address: Eichenstr. 2a, D-83620, Feldkirchen-Westerham, GermanyCitizenship: GermanX Signature: Marion ZellnerDate: 20. 09 2006Full name of 2nd joint inventor (if any): Marion ZELLNERResidence: Egmating, GermanyMailing Address: Binsberg 15, D-85658, Egmating, GermanyCitizenship: German

X Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Full name of 3rd joint inventor (if any): Thomas RILLMANResidence: Bellheim, GermanyMailing Address: Gustav-Ullrich-Str. 46, D-76753, Bellheim, GermanyCitizenship: German

20. FEB. 2007 12:20

8024 908 2198

NR. 853

S. 4/5

FLH Docket No. 930008-2208

X Signature:

Andreas Dauer

Date:

04/03/06

Full name of 4th joint inventor (if any): Andreas DAUER

Mailing Address:

Julius-von-Niethammer-Str. 16, D-83052 Heufeld, Germany

Residence:

Heufeld, Germany

Citizenship:

German

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 930008-2208 (BOE0004US.NP)  
Inventors: Klokke et al.  
Serial No.: 10/577,569  
Filing Date: Not Yet Assigned  
Examiner: Not Yet Assigned  
Customer No: 26259  
Group Art Unit: Not Yet Assigned  
Confirmation No: 6210  
Title: Pharmaceutical Active-  
Ingredient-Containing Formulation  
with Coating

"Express Mail" Label No. EM054665613US  
Date of Deposit February 21, 2007

I hereby certify that this paper is being deposited with the  
United States Postal Service "Express Mail Post Office  
to Addressee" service under 37 CFR 1.10 on the date  
indicated above and is addressed to the Commissioner for Patents  
Post Office Box 1450, Box Missing Parts, Alexandria, VA 22313-1450

By Jane Massey Licata  
Typed Name: Jane Massey Licata, Reg. No. 32,257

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Petition Under 37 CFR §1.47(a)

Applicants petition pursuant to 37 CFR §1.47(a) for the Office  
to accept the Declaration and Power of Attorney Forms for the  
above-referenced application which have been signed by inventors  
Klokke, Zellner and Dauer but not signed by inventor Rillman.

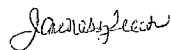


Attorney Docket No.: BOE0004US.NP  
Inventors: Klokke et al.  
Serial No.: 10/577,569  
Filing Date: Not Yet Assigned  
Page 2

Applicants' counsel accepted the representation and handling of this application on February 20, 2007. As evidenced by the attached letter from Boeters & Lieck, inventor, Rillmann refuses to sign the Declaration and Power of Attorney form.

Therefore, Applicants are submitting with this petition, the requisite fees under 37 CFR §1.17(i) and 1.17(a)(3) and respectfully request that the attached duly executed Declaration and Power of Attorney forms signed by inventors, Klokke, Zellner and Dauer be considered responsive to the Notification of Missing Requirements

Respectfully submitted,



Jane Massey Licata  
Registration No. 32,257

Date: February 21, 2007

LICATA & TYRRELL P.C.  
66 E. Main Street  
Marlton, New Jersey 08053

(856) 810-1515

**BOETERS & LIECK** - PATENTIANWÄIT  
- EUROPEAN PATENT AND  
- TRADEMARK ATTORNEYS

FACSIMILE: 001-856-810-1454  
Licata & Tyrrell P.C.  
Attn.: Ms Jane Massey Licata  
66 E. Main Street  
Marlton, New Jersey 08053  
USA

February 20, 2007/St  
via facsimile

**URGENT**

Your ref.: unknown  
Our ref.: 16508  
US Patent Application No. 10/577 569  
Hexal AG

Dipl. Ing. Dr. Peter Lieck  
Dipl. Chem. Dr. Hans D. Boeters  
Dipl. Ing. Dr. Bert Bauer (-2003)  
Dipl. Ing. Dr. Ottmar Paudisch  
Dipl. Chem. Dr. Dietmar G. Forstmeier  
Dipl. Ing. Roland Veith

Thomas Br. Wieser Hofmann &  
TECHNOL/WW

Dr. med. Dr. med. Dr. med.  
Dr. med. Dr. med. Dr. med.  
Dr. med. Dr. med. Dr. med.  
Dr. med. Dr. med. Dr. med.  
Dr. med. Dr. med. Dr. med.

Dear Ms Massey Licata:

On February 12, 2007, Frommer Lawrence & Haug LLP transferred the above file to your firm. Tomorrow, February 21, 2007, is the deadline date for filing the response to missing requirements. Enclosed please find the following documents  
- declaration  
- assignment  
signed by three inventors. The fourth inventor, Mr. Thomas Rillmann, refuses to sign said documents. Further, said declaration cites the Frommer et al. address as address for correspondence. Please advise whether this will be acceptable to the USPTO or let us have your suggestions how to handle the situation via return facsimile.

Thank you very much for your assistance.

Very truly yours,

*Dieter Forstmeier*  
(Dr. Forstmeier)

Encls.  
a/m

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: BOE0004US.NP  
Inventors: Klokke et al.  
Serial No.: 10/577,569  
Filing Date: Not Assigned  
Examiner: Not Assigned  
Customer No: 26259  
Group Art Unit: Not Assigned  
Confirmation No: 6210  
Title: Pharmaceutical Active-Ingredient-  
Containing Formulation with Coating  
Electronically Submitted via EFS-Web  
Date: October 4, 2007

I hereby certify that this paper is being electronically  
submitted on the date indicated above to the  
Commissioner for Patents, U.S. Patent &  
Trademark Office

By Jane Massey Licata  
Typed Name: Jane Massey Licata, Reg. No. 32,257

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Declaration of Hubert Leger

I, Hubert Leger, of Hexal AG, Industriestrasse 25, 83607  
Holzkirchen, Germany state the following:

1. I am the Head of Patents Sandoz Development Center at  
the Holzkirchen site of Hexal AG ("the Employer"). I  
have held this position since 1 January 2006. I am  
duly authorised to make this Statement on behalf of the  
Employer who has also acquired rights in US Patent

Attorney Docket No: BOE0004US.NP  
Inventors: Klokke et al.  
Serial No.: 10/577,569  
Filing Date: Not Assigned  
Page 2

Application No. 01/577,569 (the "Application") by virtue of assignment. The information in this Affidavit is taken from the Employer's records, to which I have full access, and from my own personal knowledge.

2. This Affidavit is made in support of a Petition Under 37 CFR §1.47(a), to accept the Application without the signature of one of the co-inventors - Dr. Thomas Rillmann.
3. On 23 February 2007 a Federal Express package was sent to Dr. Rillmann at his last known address of: Gustav-Ullrich-Str. 46, 76753 Bellheim, Germany, enclosing, for signature, a copy of the Declaration for Patent Application, a Power of Attorney and an Assignment form. Receipt of this package was confirmed by the Receptionist/Front Desk on 26 February 2007 and this confirmation was returned to the US attorneys Licata & Tyrrell P.C. who are handling the prosecution of the Application, on our behalf, in the United States. Attached are copies of the letter, Federal Express label and confirmation of delivery.
4. Dr. Rillmann did not return any of these documents and in the absence of a response from him, I contacted him in early 2007 to suggest that we have a meeting to resolve the outstanding issues regarding the Application.
5. Dr. Rillmann agreed to attend a meeting at Hexal AG in Holzkirchen which took place on Friday 9<sup>th</sup> March 2007. The meeting was attended by myself, Dr. Rillmann, Dr.

Attorney Docket No: BOE0004US.NP  
Inventors: Klokke et al.  
Serial No.: 10/577,569  
Filing Date: Not Assigned  
Page 3

Zeh-Herwerth and Dr. Karin Klokke, one of the other inventors named on the Application

6. During the meeting Dr. Rillman indicated that he was unwilling to sign documents in relation to the Application.
7. On 25 April 2007 I received a letter from a firm of German Patent Attorneys acting for Dr. Rillman. In the letter, Dr. Rillman's attorneys indicated that Dr. Rillman would not sign the Declaration in its present form because of an on going issue regarding inventorship.
8. On 23 May 2007, at my direction, my colleague, Robin Ellis, sent a letter to Dr. Rillmann's attorneys, enclosing the Declaration and requesting that it be forwarded to their client (see Attached).
9. On 20 June 2007, at my direction, our assistant Frau Andrea Hundsdorfer spoke with Dr. Rillmann's patent attorney, Herr Dr. Steffen Lenz, who confirmed that the letter of 23 May 2007 had been forwarded to, and received by, Dr. Rillmann. Herr Dr. Lenz also informed Frau Hundsdorfer that we should expect to receive an executed Declaration by the end of the week commencing 25 June 2007.
10. At my instruction, a further reminder letter was sent by facsimile and email to Herr Dr. Lenz on 5 July 2007 but as of 11 July 2007, the Declaration had still not been received.

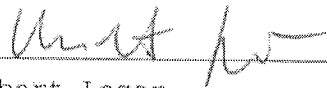
Attorney Docket No: BOE0004US.NP  
Inventors: Klokke et al.  
Serial No.: 10/577,569  
Filing Date: Not Assigned  
Page 4

11. On 13 July 2007, I received an executed, amended, version of the Declaration from Herr Dr. Lenz which my colleague, Robin Ellis, forwarded to our US attorneys for filing at the USPTO. Before executing the Declaration, Dr. Rillmann removed the names of the other three inventors.
12. On July 17, 2007, a response to Missing Parts was filed with two Declarations: one signed by the other co-inventors and one prepared and signed by Dr. Rillmann.
13. On 5 September 2007, a decision was issued by the USPTO stating that the Declaration prepared and signed by Dr. Rillmann was "not in compliance with 37 CFR 1.497(a)-(b) since it does not identify all of the inventors". A deadline of 1 month from the mailing date of this decision was set to remedy this deficiency but due to the notice being sent to the incorrect US attorney, I only became aware of this decision on 1 October 2007.
14. On 2 October 2007, my colleague, Robin Ellis, sent a facsimile to Dr. Rillmann's attorney, informing him of the problem with the Declaration executed by Dr. Rillmann, and requesting that Dr. Rillmann return an executed version of the original Declaration before 4 October 2007.
15. As of 4 October 2007, the executed Declaration had not been received from either Dr. Rillmann or his attorney.

Attorney Docket No.: BOE0004US.NP  
Inventors: Klokke et al.  
Serial No.: 10/577,569  
Filing Date: Not Assigned  
Page 5

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

  
Hubert Leger

Date: October 4, 2007

LICATA & TYRRELL P.C.  
66 E. Main Street  
Marlton, NJ 08053

(856) 810-1515

# *Licata & Tyrrell P.C.*

*Patent Attorneys*

*Translating Science into Invention®*

*66 E. Main Street*

*Marlton, New Jersey 08053*

Telephone: (856) 810-1515

Facsimile: (856) 810-1454

Web Site: [licataandtyrrell.com](http://licataandtyrrell.com)

Direct E-mail: [jmlicata@licataandtyrrell.com](mailto:jmlicata@licataandtyrrell.com)

February 23, 2007

Via Federal Express

Dr. Thomas Rillmann  
Gustav-Ulrich-Str. 46  
D-76753 Bellheim, Germany

RE: U.S. National Stage Patent Application entitled  
"Pharmaceutical Active-Ingredient-Containing Formulation  
with Coating"  
Serial No: 10/577,569      Filing Date:  
Your Ref: 16508  
Our Ref: BOE0004US.NP

Dear Dr. Rillmann:

Enclosed in connection with the above-referenced application  
are the following documents for signature:

- \* Declaration and Power of Attorney form to be signed and  
dated by you; and
- \* Assignment to be signed and dated by you.

Please note that if a change is made to any of the  
information contained in the above-referenced documents, each  
change must be initialed and dated. Please return these  
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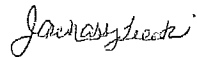
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dated.



February 23, 2007  
Page 2

If you have any questions, please contact me.

Best regards,



Jane Massey Licata

JML:deb  
Enclosure

cc: Dr. Dietmar Forstmeyer  
Boeters & Lieck

From: Origin ID: WWDA (856) 810-1515  
 Deborah Ehret  
 Licata & Tyrrell P.C.  
 66 East Main Street



CL5012107/2/1/23

Marlton, NJ 08053  
 UNITED STATES

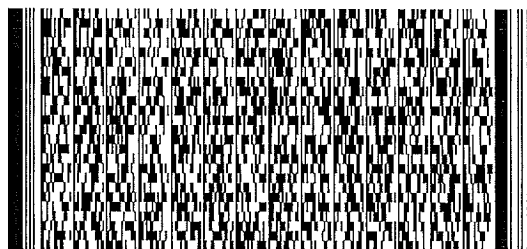
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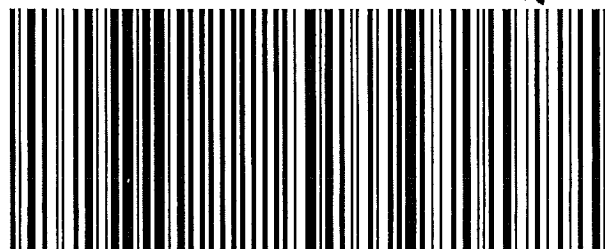
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Licata & Tyrrell P.C.  
Attn.: Ms Jane Massey Licata  
66 E. Main Street  
Marlton, New Jersey 08053  
USA

April 19, 2007/St  
via facsimile

Dipl. Ing. H. Peter Lieck  
Dipl. Chem. Dr. Hans D. Boeters  
Dipl. Ing. Robert Bauer (2003)  
Dipl. Ing. Dr. Othmar Paustig  
Dipl. Chem. Dr. Dietmar G. Forstmeyer  
Dipl. Ing. Roland Veith

Thomas Breitwieser Rechtsanwalt

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Oberranger 32  
80331 München Germany

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Our ref.: 16508  
US Patent Application No. 10/577 569  
Hexal AG

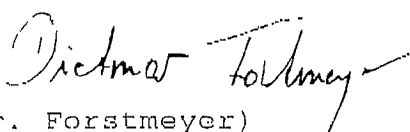
Dear Jane:

This is with reference to your letter of April 4, 2007.

We confirm that Dr. Rillmann's address is the latest known address and the correct one. Enclosed you will find a copy of a letter we sent him on March 12, 2007 whereupon he contacted Hexal AG and refused further cooperation.

We will try to let you have further information and evidence shortly.

Very truly yours,

  
(Dr. Forstmeyer)

Encls.  
a/m

**BOETERS & LIECK** - PATENTANWÄLTE  
- EUROPEAN PATENT ATTORNEYS  
- TRADEMARK ATTORNEYS

Herrn  
Dr. Thomas Rillmann

Gustav-Ullrich-Str. 46

76753 Bellheim

12. März 2007/St

Dipl. Ing. M. Peter-Liedt  
Dipl. Chem. Dr. H. G. K. K.  
Dipl. Ing. R. B. B. B. B.  
Dipl. Ing. Dr. G. B. B. B.  
Dipl. Chem. Dr. G. B. B. B.  
Dipl. Ing. P. B. B. B.

Thomas B. B. B. B.

TECHNISCHER

Dr. B. B. B. B.

Dr. B. B. B. B.

Dr. B. B. B. B.

Dr. B. B. B. B.

Unser Zeichen: 16503

Kanadische Patentanmeldung Nr. 2 543 689

auf Basis von DE 103 51 301.9, DE 10 2004 014 828.7

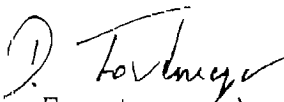
und PCT/EP 2004/012230

Klokkers et al.; Pharmaceutical active-ingredient-containing  
formulation with coating

Sehr geehrter Herr Dr. Rillmann!

In obengenannter Patentanmeldung läuft am 26. April 2007 die Frist zur Einreichung des Assignments beim Kanadischen Patentamt ab. Bitte lassen Sie uns wissen, ob Sie in obengenannter Patentanmeldung sowie in den parallelen Akten der Patentfamilie gewillt sind, die nötigen Unterschriften zu leisten. Bitte beachten Sie, daß die Anmeldungen ohne Ihre Unterschrift möglicherweise als zurückgenommen gelten und eventuell Schadenersatzforderungen auf Sie zukommen könnten.

Mit freundlichen Grüßen

  
(Dr. Forstmeyer)  
Patentanwalt

\* \* \* SENDEBERICHT ( 23. MAI. 2007 13:04 ) \* \* \*

FAX HEADER: +49 0024 900 2198

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**HEXAL AG**

HEXAL AG - Postfach 1263 - 76602 Holzkirchen

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LICHTI

Patentanwälte

z. Hd. Herrn Dipl.-Ing. Lenz

Postfach 41 07 60

D-76207 Karlsruhe

Ansprechpartner: Andrea Hundsdoerfer  
 Tel: +49 (0) 80 24 / 9 08 - 15 03  
 Fax: +49 (0) 80 24 / 9 08 - 21 98  
 e-mail: andrea.hundsdoerfer@sandoz.com

Holzkirchen, 23. Mai 2007

Ihr Zeichen: A3001.4 Lz/vt

PCT/EP 2004/012230

„Pharmaceutical active-ingredient containing formulation with coating“

hier: Arbeitnehmererfinder Dr. Thomas Rillmann

Sehr geehrter Herr Dipl.-Ing. Steffen Lenz,

Wir beziehen uns auf Ihre Schreiben in o. g. Angelegenheit und nehmen zur Kenntnis, daß Sie Herrn Dr. Thomas Rillmann in dieser Angelegenheit vertreten.

In der Anlage erhalten Sie eine „Declaration for Patent application and Power of Attorney“ bezüglich der US-Anmeldung Nr. 10/577 569. Eine Kopie dieser Declaration wurde bereits per Federal Express am 23.02.2007 an Herrn Rillmann gesandt.

Bitte bestätigen Sie uns, daß Sie die „Declaration for Patent application and Power of Attorney“ erhalten und an Herrn Rillmann zur Unterschrift weitergeleitet haben.

Wir bitten um Rücksendung der von Herrn Rillmann unterzeichneten „Declaration“ an uns so bald wie möglich.

Mit freundlichen Grüßen

HEXAL AG

Robin Ellis

Patente SDC Holzkirchen

Andrea Hundsdoerfer

Assistentin Patentabteilung

HEXAL AG  
 Industriestraße 25 81607 Holzkirchen  
 Telefon: +49 / (0)8024 / 908-0  
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 e-mail: service@hexal.com  
 www.hexal.de

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 Deutsche Bank München  
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# HEXAL AG



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**Vorab per Telefax: 07 21 / 9 43 28 40**

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z. Hd. Herrn Dipl.-Ing. Lenz

Postfach 41 07 60

D-76207 Karlsruhe

Ansprechpartner: Andrea Hundsdorfer  
Tel: +49 (0) 80 24 / 9 08 – 15 03  
Fax: +49 (0) 80 24 / 9 08 – 21 98  
e-mail: andrea.hundsdorfer@sandoz.com

Holzkirchen, 23. Mai 2007

Ihr Zeichen: A3001.4 Lz/vt

PCT/EP 2004/012230

„Pharmaceutical active-ingridient containing formulation with coating“

hier: Arbeitnehmererfinder Dr. Thomas Rillmann

Sehr geehrter Herr Dipl.-Ing. Steffen Lenz,

Wir beziehen uns auf Ihre Schreiben in o. g. Angelegenheit und nehmen zur Kenntnis, daß Sie Herrn Dr. Thomas Rillmann in dieser Angelegenheit vertreten.

In der Anlage erhalten Sie eine „Declaration for Patent application and Power of Attorney“ bezüglich der US-Anmeldung Nr. 10/577 569. Eine Kopie dieser Declaration wurde bereits per Federal Express am 23.02.2007 an Herrn Rillmann gesandt.

Bitte bestätigen Sie uns, daß Sie die „Declaration for Patent application and Power of Attorney“ erhalten und an Herrn Rillmann zur Unterschrift weitergeleitet haben.

Wir bitten um Rücksendung der von Herrn Rillmann unterzeichneten „Declaration“ an uns so bald wie möglich.

Mit freundlichen Grüßen

HEXAL AG

Robin Ellis  
Patente SDC Holzkirchen

Andrea Hundsdorfer  
Assistentin Patentabteilung

## HEXAL AG

Industriestraße 25 83602 Holzkirchen  
Telefon: +49 / (0)8024 / 908-0  
Telefax: +49 / (0)8024 / 908-1290  
e-mail: service@hexal.com  
www.hexal.de

Konten:  
Deutsche Bank München  
Konto 17 86 520 (BLZ 700 700 10)  
IBAN DE27 700 700 100 17 86 52 000 SVIFT DEUTDE33

Vorstand:  
Hubert Hitzinger,  
Jürgen Höhne,  
Hubert Mayr  
Vorsitzender des Aufsichtsrates:  
Dr. Horst-Uwe Greh

Sitz:  
Holzkirchen  
Registergericht München  
HRB 110375  
Ust-Id Nr. DE 131170111



**DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY**

(Under 37 CFR § 1.63; includes reference to PCT International Applications)

As a below named inventor, I hereby declare that:

My residence, resident, mailing address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention ENTITLED:

**PHARMACEUTICAL ACTIVE-INGREDIENT-CONTAINING FORMULATION WITH COATING**

the specification of which:

- ☐ is attached hereto
- ☒ was filed on \_\_\_\_\_ as:
- ☒ United States Application Serial No. \_\_\_\_\_
- ☒ as a National Phase or Continuation or Continuation-in-Part or Divisional of PCT Application No. PCT/EP2004/012230, filed October 28, 2004 and designating the U.S., and published as WO 2005/041934 A on May 12, 2005
- ☐ with amendments through \_\_\_\_\_ (if applicable, give details).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code § 119 of any foreign application(s) for patent or inventor's certificate or of any PCT International application(s) designating at least one country other than the United State of America listed below and have also identified below any foreign application for patent or inventor's certificate or any PCT International applications designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) on which priority is claimed:

Prior Foreign/PCT Application(s) [list additional applications on separate page]:

<u>Country (or PCT)</u>	<u>Application Number:</u>	<u>Filed (Day/Month/Year)</u>	Priority Claimed:	
			<u>Yes</u>	<u>No</u>
DE (Germany)	103 51 301.9	31/10/2003	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DE (Germany)	10 2004 014 828.7	24/03/2004	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States application listed below:

\_\_\_\_\_  
(Application Number)      \_\_\_\_\_  
(Filing Date)

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S. (or U.S.-designating PCT) Application(s) [list additional applications on separate page]:

U.S. Serial No.: Filed (Day/Month/Year) PCT Application No. Status (patented, pending, abandoned)

I hereby appoint Ronald R. Santucci, Registration No. 28,988, and Frommer Lawrence & Haug LLP, or their duly appointed associate, my attorneys, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to file continuation and divisional applications thereof, to receive the Patent, and to transact all business in the Patent and Trademark Office and in the Courts in connection therewith, and to insert the Serial Number of the application in the space provided above, and specify that all communications about the application are to be directed to the following correspondence address:

Ronald R. Santucci, Esq.  
c/o FROMMER LAWRENCE & HAUG LLP  
745 Fifth Avenue  
New York, NY 10151

Direct all telephone calls to: (212) 588-0800  
to the attention of: Ronald R. Santucci

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

INVENTOR(S):

X Signature: Karin Klockers Date: Aug 18, 2006  
Full name of sole or first inventor: Karin KLOCKERS  
Residence: Feldkirchen-Westerham, Germany  
Mailing Address: Eichenstr. 2a, D-83620, Feldkirchen-Westerham, Germany  
Citizenship: German

X Signature: Marion Zellner Date: 20.09.2006  
Full name of 2nd joint inventor (if any): Marion ZELLNER  
Residence: Egming, Germany  
Mailing Address: Binsberg 15, D-85658, Egming, Germany  
Citizenship: German

X Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Full name of 3rd joint inventor (if any): Thomas RILLMAN  
Residence: Bellheim, Germany  
Mailing Address: Gustav-Ullrich-Str. 46, D-76753, Bellheim, Germany  
Citizenship: German

X Signature: Andreas Dauer

Date: 04/05/06

Full name of 4th joint inventor (if any): Andreas DAUER

Mailing Address: Julius-von-Niethammer-Str. 16, D-83052 Heufeld, Germany

Residence: Heufeld, Germany

Citizenship: German